

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ERIC JUSTIN DIETRICH;
LE CHATEAU ART GALLERY
& CUSTOM FRAMING, LLC;
CHILDREN'S FAMILY IRREVOCABLE
TRUST; and EDGAR J. DIETRICH,

Plaintiffs,

Case No. 14-10182/13-13935

Hon. John Corbett O'Meara

v.

PETER K. TIERNAN, M.D.,

Defendant.

**OPINION AND ORDER DENYING PLAINTIFFS' MOTION FOR
REINSTATEMENT OF COMPLAINT, MOTION FOR EXPEDITED
CONSIDERATION, MOTION FOR RULING ON MOTIONS, AND
MOTION TO REINSTATE CASE AND AMEND COMPLAINT**

Regarding case 14-10182, Plaintiffs Dietrich *et al.* filed a motion for reinstatement of complaint January 31, 2014. Defendant Tiernan filed a response brief February 18, 2014, and a supplementary reply brief April 18, 2014. In addition, Plaintiffs filed a motion for expedited consideration April 4, 2014. Defendant filed a response to Plaintiffs' motion for expedited consideration April 18, 2014. Plaintiffs filed a motion for ruling on motions June 20, 2014.

Regarding companion case 13-13935, Plaintiffs Dietrich *et al.* filed a motion to reinstate case and amend complaint October 8, 2013. Defendant filed a response October 25, 2013. In addition, Defendant filed supplementary briefs December 19, 2013, April 18, 2014, and June 18, 2014. For the reasons set forth below, the court will deny Plaintiffs' motions.

BACKGROUND

Plaintiffs' complaint was dismissed voluntarily January 28, 2014, by Plaintiffs' attorney. The non-entity plaintiffs are Edgar Dietrich and Eric Dietrich. The entity-based plaintiffs are Le Chateau Art Gallery & Custom Framing, L.L.C. ("Chateau") and Children's Family Irrevocable Trust. Specific to the voluntary dismissal, Edgar Dietrich's attorney received a letter from counsel representing the City of Grosse Pointe in a separate legal action. See Edgar J. Dietrich v. City of Grosse Pointe Park, et al. (E.D. Mich., Case No: 14-10264 (denying reinstatement of complaint)).

The letter, dated January 27, 2014, requested Edgar Dietrich's attorney to voluntarily dismiss the complaint or face sanctions. Based on the letter, Edgar Dietrich's attorney withdrew complaints in the current matter and in the City of Grosse Pointe Park matter. Plaintiff Eric Dietrich seeks to have the complaint reinstated. Plaintiffs' original January 15, 2014 complaint is signed by both Eric Dietrich and Edgar Dietrich. Including the motion to reinstate case and amend

complaint in the 13-13935 case, all of the pending motions before the court are signed by Eric Dietrich.

LAW AND ANALYSIS

Under Rule 60 of the Federal Rules of Civil Procedure, the court may relieve a party from a “final judgment, order or proceeding . . . [if there was] mistake, inadvertence, surprise, or excusable neglect[.]” Rule 60 is available only to parties that have standing in litigation matters. In relation to standing, “[j]ust as a corporation cannot act except through its agents and officers, it generally cannot participate in litigation except through counsel. The rule of this circuit is that a corporation cannot appear in federal court except through an attorney.” Doherty v. American Motors Corp., 728 F.2d 334, 340 (6th Cir. 1984).

Plaintiff Eric Dietrich and his father Edgar Dietrich do not have standing in the current litigation. In reviewing both the previously filed complaint and the recently filed motions, Eric Dietrich and Edgar Dietrich both signed the January 15, 2014 complaint. In addition, Eric Dietrich is the only person that signed the January 31, 2014 motion to reinstate complaint; the April 4, 2014 motion for expedited consideration; and the June 20, 2014 motion for ruling on motions. Eric Dietrich is the only person to have signed the motion to reinstate case and amend complaint in the 13-13935 matter.

All of the pending motions are litigation-related documents that must be signed by an attorney in order to represent the corporation in the pending legal matters. Eric Dietrich is not an attorney. Edgar Dietrich is a disbarred attorney not authorized to practice law.

CONCLUSION

It is hereby **ORDERED** that Plaintiffs' January 31, 2014 motion for reinstatement of complaint is **DENIED**.

It is further **ORDERED** that Plaintiffs' April 4, 2014 motion for expedited consideration is **DENIED**.

It is further **ORDERED** that Plaintiffs' June 20, 2014 motion for ruling on motions is **DENIED**.

It is further **ORDERED** that Plaintiffs' October 8, 2013 motion to reinstate case and amend complaint is **DENIED**.

Date: July 7, 2014

s/John Corbett O'Meara
United States District Judge

I hereby certify that on July 7, 2014 a copy of this order was served upon the parties of record using the ECF system and/or by first-class U.S. mail.

s/William Barkholz
Case Manager